

Message Text

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ACTION EB-11

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FM AMEMBASSY MANAGUA

TO SECSTATE WASHDC PRIORITY 1033

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E. O. 11652: GDS

TAGS: EAGR, NU

SUBJECT: GON APPARENTLY SHIFTS PORTION OF EXPORT TAX TO BROKERS

REF A) MANAGUA 1371, B) STATE 049237

1. MR. WIEL OF WIEL BROTHERS CALLED THE AMBASSAAOR THE AFTERNOON OF MARCH 16 TO REPORT HIS UNDERSTANDING THAT THE GON HAD ISSUED A NEW REGULATION PLACING THE BURDEN OF CERTAIN COTTON EXPORTS, SPECIFICALLY ON THE COTTON BROKERS. THE AMBASSADOR REPLIED HE WOULD LOOK INTO THE MATTER AND SEEK RELIEF IF THE REPORT WERE TRUE. WE HAVE SINCE OBTAINED COPY OF THE NEW REGULATION WHICH WAS APPROVED BY THE NATIONAL GOVERNING COUNCIL MARCH 13 AND PUBLISHED IN THE LOCAL PRESS MARCH 17. MR. WIEL'S REPORT IS ACCURATE. ARTICLE 3 OF THE REGULATION READS AS FOLLOWS:

2. BEGIN QUOTE FOR COTTON DELIVERED OR PAID FOR BEFORE THE SIXTH OF JANUARY WHICH HAS NOT BEEN EXPORTED, THE EXPORTERS SHOULD APPLY TO THE PAYMENT OF THE 10 PERCENT TAX AT THE MOMENT OF EXPORTATION, THE AMOUNT OF THE RETENTION TAX (3 PERCENT) COLLECTED FROM THE PRODUCERS AND MAKE UP THE DIFFERENCE FROM THEIR OWN ACCOUNTS. IN NO CASE MAY THE EXPORTERS CHARGE THE PRODUCERS FOR THE 10 PERCENT TAX ON SALES PAID FOR TOTALLY OR PARTIALLY BEFORE JANUARY 6, 1973. FOR PAYMENTS AFTER JANUARY 6, WHICH MAY HAVE BEEN MADE PROVISIONALLY AT AMOUNTS ABOVE 21 CORDOBAS PER HWT, THE EXPORTERS MUST REPAY BY RETURNING TO THE PRODUCER OR TO HIS

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FINANCING BANK, ANY EXCESS AMOUNT COLLECTED WITHIN 15 DAYS OF THE PUBLICATION OF THIS REGULATION. END QUOTE.

3. THE FOREGOING APPEARS CLEARLY INTENDED TO INVALIDATE THE STANDARD F. O. B. PURCHASE CONTRACT WHICH SHIFTS ALL TAXES, SPECIFICALLY INCLUDING EXPORT TAXES, TO THE PRODUCERS. INSTEAD, IT PLACES THE RESPONSIBILITY FOR THE TAX ON COTTON DELIVERED OR PAID FOR (IN FULL OR IN PART) SQUARELY ON THE BROKERS. MOREOVER, IT OBLIGES THE BROKERS TO RETURN TO THE GROWERS, THE TAXES THEY HAVE ALREADY COLLECTED ON PARTIALLY FULFILLED CONTRACTS PER PARA 1 D1 OF REFTEL A.

4. EMBOFFS DISCUSSED THIS REGULATION WITH LOCAL AGENTS OF WIEL BROTHERS MORNING OF MARCH 19. THEY ARE VERY UPSET. THEY STATE THEY HAD ALREADY RECOUPED APPROXIMATELY 80 PERCENT OF THE TAX FROM THE GROWERS BY INVOKING THE CONTRACT CLAUSE ON TAXES. NOW THEY MUST RETURN THIS MONEY TO THE GROWERS AND PAY THE TAX FROM THEIR OWN POCKETS. THEY ESTIMATE THE COST TO WIEL BROTHERS ALONE AT \$200,000.

5. EARLIER, GENERAL SOMOZA HAD INDICATED TO THE AMBASSADOR AND THE VICE- MINISTER OF FINANCE TO THE DCM, THAT THE GON WOULD NOT TAKE SIDES IN THE LEGAL DISPUTE BETWEEN THE BROKERS AND SOME PRODUCERS. OBVIOUSLY, THE NEW REGULATION HAS CHANGED THAT SITUATION. THE AMBASSADOR, ON HIS RETURN FROM THE US MARCH 22, WILL RAISE THE ISSUE WITH GENERAL SOMZOA, AND SEEK RELIEF FOR US BROKERS, POINTING OUT THE INEQUITY OF INVALIDATING THE TERMS OF THE CONTRACTS AND THE POSSIBLE REPERCUSSIONS SUCH ACTION COULD HAVE IN THE FUTURE ON NICARAGUA' S COMMODITY EXPORTS.
WARNER

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